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Paper 9084/11

Paper 11

Key messages

- Most questions require candidates to address both a factual and an analytical element of the topic in question. It is essential that candidates include both of these elements in their answer to allow them to access the upper bands of marks.
- Illustrative content, by statute or case, is essential to achieve the higher bands of marks.

General comments

The paper was of a similar level of difficulty to that set in previous years and none of the questions was considered to be particularly difficult. Almost all the candidates were able to attempt three questions, and lack of time only appeared to be an issue for a very few candidates.

However, it was apparent that for some candidates the third answer was poorly attempted. Some Centres produced really good examples of well considered responses and the standard of written English seems again to have improved across the majority of Centres.

Indeed, some of the better candidates were able to produce answers of some considerable length given the time constraints.

Unfortunately, as in previous years, it was disappointing that some candidates continue to offer pre prepared answers, without taking the requirements of the specific question into account. These answers inevitably gained limited marks as they failed to address clearly the issues within the questions. Sometimes this seems to have been caused by careless reading of the question and candidates are encouraged to ensure they read each question fully before starting to write. This was particularly evident in the questions concerning Mediation (**Question 2**) and the Magistrates' Court (**Question 6**). Candidates who did not include case citation and illustration in their answers, especially in the questions on the Human Rights Act 1998 (**Question 1**) and Equity (**Question 5**), were limited in the number of marks they could gain.

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Comments on specific questions

Question 1

This was a question on the effect of the Human Rights Act 1998. This question was moderately popular and many candidates were able to give a good account of the problems facing society before the implementation of the act. It was also pleasing to see many candidates discussing the procedures for declaration of incompatibility and the role of the courts. Oddly, fewer case examples were offered that in previous examination series and often candidates would give rather generalized accounts of the rights protected, rather than detail on the articles. Fewer candidates now confuse the ECHR with the ECJ and this is pleasing.

Question 2

This was a question on Mediation and the popularity of ADR. Many candidates were able to give quite a detailed account of the types and styles of mediation available as well as the areas in which it might be used. Some managed to use impressive statistics to comment on its success and these candidates were well rewarded. The better candidates then went on to discuss the more general advantages of ADR, drawing examples from other styles of ADR whilst keeping the focus clearly on mediation. However, weaker candidates wrote rather generally about ADR and were not so well rewarded.

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Question 3

This question concerned the justification for jury trial and proved fairly popular. Many candidates were able to give a good account of the selection processes and function, and link these to analytical commentary on effectiveness. However weaker candidates would often launch into a pre prepared discussion of "advantages and disadvantages" of jury trial with no real focus on the question and, more disturbingly, little factual content. Whilst the question contained a quote concerning a criminal case, those who discussed civil juries were rewarded, where their arguments were valid.

Worryingly, very few candidates seemed aware of the landmark case of Blake (which falls well within the 12 month rule) and this meant that their answers lacked any real focus.

Question 4

This question required candidates to discuss precedent and comment on the rigidity or otherwise of the system. This proved a popular question and many candidates were able to provide good explanation and case citation to support the arguments concerning flexibility as against rigidity.

However, weaker candidates scored poorly when answers on what is essentially a case driven subject featured little or no relevant case citation as illustration of their arguments.

Question 5

This question concerned the fairness of Equity. Many candidates were over reliant on historical detail and the creation of customary law, which was not able to be well rewarded. Where this historical information was use to illustrate unfairness or injustice with the common law system candidates fared better. Some accounts were wide ranging and detailed covering remedies, maxims and concept with ease and excellent citation. However, the weaker candidate would often leave key terms (estoppel, trust, specific performance etc.) not defined and unexplained. Answers which failed to define or illustrate with explained case law were not rewarded well. To access the higher mark bands, candidates needed to explain the remedies in more detail and explain the concepts with full definitions and illustrative case law.

Question 6

This question concerned the function and jurisdiction of the Magistrates' court. Too many candidates took this as an invitation to discuss the trial process of the three types of criminal offence. Whilst this was creditworthy, the question required a much wider range of information covering both civil and criminal function and discussion of the effectiveness of the personnel found in the Magistrates' court. Stronger candidates were able to look at the effectiveness of unqualified judges dealing with an extraordinarily wide range of functions and these candidates were well rewarded. Again, many candidates took a purely analytical 'advantages and disadvantages' approach, without tailoring their information specifically to the question asked. These candidates were inevitably not well rewarded.

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Paper 9084/12

Paper 12

Key messages

- Most questions require candidates to address both a factual and an analytical element of the topic in the question. It is essential that candidates include both of these elements in their answer to allow them to access the upper bands of marks.
- Illustrative content, by statute or case, is essential to achieve the higher bands of marks.
- Where questions are based on a factual scenario (as in **Question 6**) candidates should remember to address the facts directly while avoiding two pitfalls: ignoring the facts altogether and just writing a general essay or speculating about 'facts' which are not part of the scenario but which candidates read into the situation

General comments

Timing continues to be an issue for some, with candidates failing to answer three questions or relying on note form for the last answer. It was apparent that for some candidates the third answer was poorly attempted. Candidates at some Centres produced really good examples of well considered responses and the standard of written English seems again to have improved across the majority of Centres.

Unfortunately, as in previous years, it was disappointing that some candidates continue to offer pre prepared answers, without taking the requirements of the paper into account. These answers inevitably gained limited marks as they failed to clearly address the issues within the questions. Sometimes this seems to have been caused by careless reading of the question and candidates are encouraged to ensure they read each question fully before starting to write. This was particularly evident in the questions concerning Sentencing (**Question 2**) and the Crown Court (**Question 5**). Candidates who did not include case citation and illustration in their answers, especially in the questions on Statutory Interpretation (**Question 4**) and Equity (**Question 1**), were limited in the number of marks they could gain.

Comments on specific questions

Question 1

This question concerned equity and morality. This was a very popular question – indeed it was answered by the vast majority of candidates. Many were very good indeed, mixing the historical background with the more modern aspects of equity. Some weaker candidates wrote all they knew about equity and threw in a few comments about morality at the end, which inevitably meant that they were awarded fewer marks. Generally candidates were able to show good knowledge of history, maxims, remedies and one or two cases but better candidates provided a much wider range of examples drawing from maxims, remedies and concepts such as trusts and estoppel. There continues to be far too great an emphasis on the historical origins of equity but candidates generally related well to the issue of morality.

Question 2

This was a question on sentencing. Many candidates gave heavy emphasis in this question to the principles of sentencing and answers were not always linked to the issues of the question. Often this question represented a vehicle for candidates to list principles and mitigating factors and to ignore the issue of custodial v non-custodial sentencing. The answers showed some general understanding of the range of sentences available to the court, but weaker candidates' answers became informal in content. Only a few candidates (often the weaker ones in terms of knowledge) picked up on the idea that what happens to prisoners when they leave prison (the areas they return to, the old 'friends' they associate with, possible family breakdown and the difficulties they have in obtaining employment etc.) may in fact play a significant

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role in reoffending rates. There were many narrative accounts of aims, custodial sentences and alternatives, some very detailed, with a brief observation or two about appropriateness. Candidates who were able to cite appropriate legislation fared better.

Question 3

This question concerned the Crown Prosecution Service.

The candidates attempting this often had a good general grasp of the Crown Prosecution Service but generally lacked the finer detail to achieve high marks. However there were some excellent answers where the background such as the reports leading to the establishment of the CPS and the reasons for its creation were well known as well as the current problems in the system. Better candidates were able to consider important contemporary issues about the operation of the criminal justice system. Where this was attempted by weaker candidates, there was less focus on the detailed organisation of the CPS.

Question 4

This question concerned statutory interpretation. This proved to be a popular question. It was sometimes answered very well but far too many answers were lists of different approaches and lacked evaluation of the merits of each approach. Case law was generally well known but there continue to be candidates who approach statutory interpretation without using case law to support answers, and this inevitably limits the marks which can be awarded. A surprising number of candidates failed to cite any cases at all when answering this question and many others simply named cases but did not discuss them. Even the better answers did not, on the whole, include extensive case discussion. Many weaker candidates also failed to discuss the rules of language or discussed them very badly. Centres should focus much more directly on ensuring that candidates are familiar with a wide range of relevant case law. Some candidates seemed to have a pre-set answer prepared rather than engaging with the specific wording of the question and many of the candidates did not discuss 'Is any one approach to be preferred?'

Question 5

This question concerned the Crown Court.

This was an unpopular question which was often misread as a question on precedent. There were a few answers which grasped the role of the Crown Court in the courts hierarchy and were able to explain clearly the reasons for its creation. A worrying number of candidates confused the Crown Court with the County Court and placed it in the hierarchy of civil courts. Most candidates simply did not have the appropriate knowledge base to attempt it or wrote about something else (juries or magistrates).

Question 6

This question concerned civil process and the problems with civil litigation.

This question had a range of responses, sometimes intelligent and thoughtful with a contrast drawn between court solutions and ADR, but more often short simplistic answers which concentrated on ADR without differentiating between the different methods and suggesting that she should take the issue to a tribunal where none exists to solve such an issue. Candidates who contrasted the two methods of solving this problem were rewarded well. Many candidates lacked the appropriate levels of knowledge required to discuss tracking, civil procedure and appeals etc. or wrote factually without any critical analysis. Some candidates simply wrote about ADR, including general essays covering tribunals etc., without asking whether or not all forms of ADR were applicable to this situation. Candidates often had a problem with methodology, either ignoring the facts, or simply repeating the facts, or reading in 'facts' which were not part of the question.

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Paper 9084/13

Paper 13

Key message.

- Most questions require candidates to address both a factual and an analytical element of the topic in question. It is essential that candidates include both of these elements in their answer to allow them to access the upper bands of marks.
- Illustrative content, by statute or case, is essential to achieve the higher bands of marks.
- Where questions are based on a factual scenario (as in **Question 2**) candidates should remember to address the facts directly while avoiding two pitfalls: ignoring the facts altogether and just writing a general essay; or speculating about 'facts' which are not part of the scenario but which candidates 'read into' the situation

General comments

Timing continues to be an issue for some, with candidates failing to answer three questions or relying on note form for the last answer. It was apparent that for some candidates the third answer was poorly attempted, suggesting limited choice for some. Some Centres produced really good examples of well considered responses and the standard of written English seems again to have improved across the majority of Centres.

As in previous years a number of candidates produced essays on topics which were not relevant to any question on the paper, for example statutory interpretation, and earned no marks. It was also disappointing that some candidates continue to offer pre prepared answers, without taking the requirements of the specific question into account. Clearly knowledgeable candidates often failed to reach the top level because they neglected to address the critical analytical issue in the question even in the briefest of forms. These answers inevitably gained limited marks as they failed to address fully the issues within the questions. Sometimes this seems to have been caused by careless reading of the question and candidates are encouraged to ensure they read each question fully before starting to write. This was particularly evident in the questions concerning Jury (**Question 3**) and the Employment Tribunal (**Question 6**). Candidates who did not include case citation and illustration in their answers, especially in the question on Equity (**Question 1**) and Law Reform (**Question 4**), were limited in the number of marks they could gain.

Comments on specific questions

Question 1

This question concerned equity and its role in modern law. This was a very popular question indeed and answered by the vast majority of candidates. Many were very good indeed mixing the historical background with the newer more modern aspects of equity. Some weaker candidates wrote all they knew about equity and added a few comments about modernity at the end, which inevitably meant that they were awarded fewer marks. Generally candidates were able to show good knowledge of history, maxims, remedies and one or two cases but better candidates provided a much wider range of example drawing from maxims, remedies and concepts such as trusts and estoppel. Responses that made good use of case citation achieved the highest level but it was disappointing that even these scripts did not engage substantially with the analytical aspect of the question.

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Question 2

This was a question on small claims and the advantages and disadvantages of this procedure. This question was not tackled by many candidates. Weaker responses saw no more than a general discussion of ADR, usually with little or no reference to the scenario. Even then they often did not prioritise negotiation as the most relevant avenue. Better candidates who identified the key point in the question, namely the financial sum at issue, produced some excellent essays ably advising Queenie on the dual route of negotiation or recourse to the SSC. However, Centres should note that candidates often seemed ill prepared for this type of question where it was important to both explain the relevant law and then advise the individual in the scenario as to the appropriate route for her problem.

Question 3

This question concerned the Jury in criminal trials. Better candidates produced a good account of the selection and qualification of the jury with good levels of current detail and awareness of recent changes to the law. However, even the best candidates struggled to link their analysis to the quotation, relying on the traditional "advantages and disadvantages" type of response. There were some useful and appropriate examples of both case and statute citation. Weaker candidates produced rather disappointing accounts with the general qualification for jury service being understood but without full and lucid accounts of disqualification, excusal and particularly vetting and challenge. Material which discussed the civil jury could not be credited. Candidates are reminded that they should read the question and command words carefully.

Question 4

This question concerned law reform. The question allowed candidates to range widely across the whole range of potential reform, but most chose to concentrate on the formal bodies for law reform, which was a little disappointing. Some candidates seemed confused between the formal bodies and few offered a discussion of Royal Commissions and other ad hoc bodies. The more able candidates appreciated the wider remit of the question and discussed other responsible bodies such as parliament and the courts and enhanced their answers with pertinent case or statutory support. Few candidates seemed to notice the second part of the command asking about a more unified approach and produced an entirely narrative account. Some Centres seemed unprepared for this question and offered instead irrelevant answers on delegated legislation or precedent.

Question 5

This question concerned the Court of Appeal.

This was not a popular question and many candidates wrote exclusively about the appeals process in general, gaining few marks. Generally speaking this question was not well done. Some candidates were able to explain the position of this court in the hierarchy and how precedent operated, but this was often just a narrative account. Denning's historical battle with the then House of Lords figured prominently in many responses, but was often presented out of context and with little commentary. It was disappointing that the key descriptors of function and jurisdiction were not really identified and explored in the detail they deserved. Moreover, the differing approach of the Court of Appeal (Criminal Division) received little or no consideration.

Question 6

This question concerned the Employment Tribunal and the general effectiveness of tribunals in the system.

This was a popular question. The majority of responses were knowledgeable about tribunals in general and knew about the scope and benefits of recent reforms in this area. Most could give examples of the areas in which they operate and a pleasing number of candidates wrote with some authority about the recent tier/upper tribunal system. Surprisingly, many candidates failed to discuss the personnel involved and the advantages of expert input, but most were able to explain the advantages and disadvantages of the system with some clarity. All but the better candidates, however, failed to tailor their responses to include pertinent material relating to Employment tribunals in particular.

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Paper 9084/21

Paper 21

Key messages

A good response to this paper will:

- identify the issue
- show whether the legal issues arising are civil or criminal matters
- respond using the source material
- identify clearly what part of the source material is relevant
- apply the source material in detail to the scenario.

General comments

The Law and Legal Liabilities paper includes source material as well as short scenarios which give rise to legal issues. The sources paper requires candidates to read the short scenario or series of scenarios and then to answer questions set on the legal implications that arise. Candidates must use source material provided on the question paper. It replicates situations that a practising lawyer may encounter.

This paper combined a question on the sentencing of an adult and youth offender who had committed a robbery and a question on the interpretation of the Firearms Act 1968. Both questions required application of legislation and in part **(a)** candidates also had a relevant case to apply to the two defendants. Candidates have improved recently in their use of authority but there are still issues with the way the authority is used. It is important that Centres understand that candidates are expected to apply the various authorities in detail in order to support their arguments and also as a way of distinguishing the facts of the case.

Comments on specific questions

Question 1

This question was based on extracts from the Powers of Criminal Courts (Sentencing) Act 2000 and the case of R v Saw. Two of the questions set looked at different aspects of the Act.

(a) In this part candidates were expected to consider what sentence would be appropriate for Fred, an adult defendant who has broken into the house of a single mother who at the time was asleep in bed. The fact that Fred already had past convictions made him liable to s.79 of the PCCA 2000 but under s.111 he could escape a custodial sentence where it would be unjust in all the circumstances. The facts contained a number of mitigating circumstances which may result in him escaping a custodial sentence. Candidates generally applied the Act well although not everyone was able to identify the precise section and apply it properly.

(b) In this part the candidates needed to decide what sentence would be appropriate for Lee who was under 18 at the time of the offence. There were several relevant facts which made it possible that he would escape a custodial sentence. Lee has not got previous convictions save for stealing when he was 15 and he suggested that he was forced to carry out the crime. Candidates tended to apply these facts fairly well but several failed to apply R v Saw and also failed to explain that s.111 would not apply to him as he was under 18 at the time when the offence was committed. Candidates generally answered this part very competently.

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(c) Many candidates answered this part poorly. The question expected candidates to discuss the choice of court available to Lee although Fred had clearly been convicted of the offence by the Crown Court. The question focused on the procedure for an appeal. The responses were often very vague about the appeal process and the answers generally lacked detail.

(d) There were several very good answers to this part of the question. Candidates were expected to discuss the principles that the court would apply when considering the appropriate sentence for an adult offender. A number of answers were wide ranging in both the range of principles discussed as well as the types of sentences that the court would apply. Weaker answers limited the discussion to the defendant's background. This was credited but clearly this did not consider the key issue which was a consideration of the relevant principles which are employed in sentencing.

Question 2

This question included several scenarios based on the Firearms Act 1968 and considered whether an offence under the Act had been committed in a variety of circumstances.

(a) Candidates needed to focus clearly on the wording of s.5(1)(b) in this part. Many candidates immediately came to the conclusion that a water pistol could be a firearm because it contained a dangerous acid. The better responses discussed the fact that it could become a firearm if the court considered the filling of the water pistol with acid to be 'adapting' the water pistol.

(b) The second part of the question looked at a further scenario which concerned a stun gun which was designed to emit electricity. This part was generally answered very well – the candidates understood that this could be a firearm under s.5(1)(b) as it had been adapted to emit 'any other thing'. Candidates were also required to consider any mitigating circumstances and they were able to do this very well, citing the fear that the defendant may have suffered when she saw the group of youths threatening her.

(c) The third part of the question again required application of s.5 of the Firearms Act 1968. This part was generally answered very well. Candidates understood both the fact that the World War II pistol could be a firearm and also that there were probably mitigating circumstances because this could be seen as something that was kept merely for sentimental or historical purposes and would not be regarded as a weapon.

(d) The final part of the question required the candidates to consider the various rules available to the judiciary when attempting to interpret statutes. Answers required a detailed analysis of the three rules and the various rules of language as well as the intrinsic and extrinsic aids to interpretation. Answers were expected to include a wide variety of case law in order to illustrate the various rules. The better answers contrasted the various rules and showed why the judiciary may choose one method rather than another.

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Paper 9084/22

Paper 22

Key messages

A good response to this paper will:

- identify the issue
- show whether the legal issues arising are civil or criminal matters
- respond using the source material
- identify clearly what part of the source material is relevant
- apply the source material in detail to the scenario.

General comments

The Law and Legal Liabilities paper includes source material as well as short scenarios which give rise to legal issues. The sources paper requires candidates to read the short scenario or series of scenarios and then to answer questions set on the legal implications that arise. Candidates must use source material provided on the question paper. It replicates situations that a practising lawyer may encounter.

Most candidates showed a reasonable grasp of the expected response to this paper, in particular, the need to examine and apply source material included with the paper. However candidates must be able to adapt to the different types of questions set and they must be flexible in their approach otherwise their answers tend to miss points and to make mistakes which can easily be avoided with careful reading of the examination paper and the questions set. As in the past there were some disappointing responses amongst the candidates to some parts of the questions which reflected an inadequate reading of the sources given. The use of source material was sometimes good but the need to be very specific about sections within a particular statute or a reference to a particular part of a case or judgement was not always understood. However overall the standard was high on this paper and the overall performance of the candidates was good. Generally **Question 2** was more popular than **Question 1**.

Comments on specific questions

Question 1

This question was based on an extract from the Police and Criminal Evidence Act 1984, the European Convention on Human Rights and two cases, R v Mason and R v Grant. The first two questions set looked at the admission of evidence at a criminal trial. The first issue (**part (a)**) concerned the admissibility of evidence from a camera fixed to a garage showing pictures of the house owner supplying drugs to customers. There were some sound responses to this part referring correctly to the sources (Article 8 of the ECHR and s.78 of the Police and Criminal Evidence Act) although a number of candidates misread the question assuming that the camera was actually in the house.

Part (b) was generally well answered. It concerned the admissibility of admissions made by the house owner to the police during questioning. Candidates were able to cite the sources which included R v Grant and Article 6 but some responses did not link R v Grant with Article 6.

Part (c) generated the best responses of the three parts. Candidates were required to discuss whether evidence of Fagin's confession in the police interview was likely to be admitted by the judge. Sources were generally used very well.

There were a very wide range of answers to **part (d).** The question asked for an assessment of the impact of the Human Rights Act 1998 upon the development of English Law and for examples to be given from case law. The best answers considered a wide range of articles of the Convention and used a range of cases to

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illustrate the impact of the Act and were then able to include a discussion of the impact of the Act on the development of English law. The less good answers cited only a limited number of articles and even fewer cases. Some restricted their discussion to the articles given in the source material which was a disappointing response. Although there were some very good answers to this part, the less good responses suggest that Centres need to consider not only the Human Rights Act but also its overall impact in more depth. However the very good answers showed an encouraging improvement in the candidates' ability to evaluate the impact on the law of legislation.

Question 2

This question looked at a factual scenario based on the Wills Act 1837 and the Inheritance (Provision for Family and Dependants) Act. The first three questions were all source based and the final question expected candidates to consider the contribution made by equity to the development of the law.

(a) In this part candidates needed to focus on s.9 Wills Act 1837. The testator had attempted to draw up a valid will but had failed to secure two witnesses to sign the will. Responses to this part were generally very good and most candidates were able to see that a signature of two witnesses was essential for a valid will and cited the source material convincingly.

(b) The second part of the question looked at a further scenario. This was more difficult. A good answer should have identified that the will in this case was valid but the gift to the attesting witness was invalid under s.15 Wills Act. Some responses focused solely on the validity of the gift to the witness without first citing that the will itself was valid but a large number of candidates identified both issues. Marks were sometimes lost here for not citing the relevant sources fully.

(c) This part of the question required a detailed look at the validity of a claim by the son of the testator to a share of the estate of his father. There were a number of good responses which correctly cited passages from the 1975 Inheritance Act but many failed to apply the Act in sufficient detail and to use the facts of the question to identify whether the son could come within the provisions of the Act.

(d) This question asked candidates to consider the contribution made by equity to the development of the law. A number of answers concentrated on the historical background and these candidates did not fully develop their answers. The best answers considered a wide range of ways in which equity had had an impact on the development of the law such as the introduction of new remedies e.g. the Mareva injunction and the Anton Pillar order as well as new rights such as the trust and the mortgage. Where candidates included a wider range of ways that equity has had an impact on the law the candidate was rewarded well, as were those who included detailed evaluation of the impact of equity. Overall there were some very good responses to **Question 2** showing that source material can be used convincingly.

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Paper 9084/23

Paper 23

Key Messages

- Read the source material carefully.
- Apply relevant sections and sub-sections appropriately and specifically to the given scenario.
- Avoid focusing on assumptions that are not included in the question paper.

General comments

A paper on source material has been part of the examination for 9084 A Level Law for over eight years. Over the years candidates have responded well to the requirements of the paper, in particular the need to examine any source material included. Candidates have recognised the need to examine the source materials included with the paper and generally they handled the sources well in both questions and standards were high on both questions. However it should be noted candidates can sometimes be too flexible in their application of source material and in some cases failed to refer to the source material at all and answers often have gaps where points have been missed. These mistakes can easily be avoided if candidates carefully read the examination paper. As in previous years, there have been a few disappointing responses to some parts of the questions – e.g. no reference to refer to the sources at all or a misapplication of the sources to the questions. At times the use of source material was very good but all too often a candidate would fail to be specific about sections within a particular statute, or a reference to a particular part of a case was not always understood. There were several individual parts of both questions which were misread or misunderstood. To be successful in this examination, candidates need to read and apply the sources to the facts in the question and not apply irrelevant information that is misleading and leads to incorrect responses to the questions set. Neither question proved to be more popular than the other. Overall the standard of this paper was reasonable and much the same as last year's.

Comments on specific questions

Question One

This question looked at factual scenarios which could have given rise to criminal offences. The scenarios were based on whether or not offences were committed under the Criminal Justice Act 1988 and extracts from the case Evans v Hughes 1972. There were seven sections given from the Act. The question expected a detailed analysis of the separate sections and the application of the case law and this proved to be challenging and confusing for some candidates. The better candidates handled the source material well and were able to identify the relevant sections and the case law with ease and apply it to the issues arising out of the different scenarios.

Part **(a)** was mainly well answered with most candidates covering all the points and candidates were usually accurate in their conclusion on this part of the question but were often unable to reach the higher bands because they were not sufficiently clear about the nature of the taxi and whether this was deemed to be a public place.

Part **(b)** was also generally well answered. Most candidates discussed the nature of Rambo's bedroom and concluded that it was not a public place. However some candidates ignored the fact that that the bedroom was not a public place. A considerable number of candidates went on to discuss the police raid itself and PACE (which was not part of the source material) and then, despite initially reaching the correct conclusion, decided Rambo had committed an offence by having the machete in his bedroom.

Part **(c)** was well answered for the most part but proved to be more problematic for some candidates as they were often confused as to whether or not an offence had been committed and further whether or not the

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defendant had a valid defence. Weak answers lacked detailed sub-sections and candidates often felt the defence was without doubt and so did not explore why it could be challenged and may not be able to be used.

In part **(d)** candidates often failed to discuss both methods of trial and failed to discuss the reasons why a defendant would wish to opt for jury trial. Many answers were simply lists of the advantages and disadvantages of the use of a jury and some candidates confused the jury with magistrates. Few candidates were competent in both discussion and comparison of the options.

Question Two

This question looked at issues arising from the Matrimonial Causes Act 1973 and the Marriage Act 1949. The source material concentrated exclusively on various sections of the Acts as well as extracts from the case Hirani v Hirani 1983 as to what constituted a valid marriage.

Parts **(a)** and **(b)** of this question involved two 5 mark questions and both proved to be problematic. Candidates were expected to apply the Marriage Act and were often unable to apply the correct sections. In both parts candidates were confused about the validity of a marriage by someone under the age of 18 but over the age of 16 to someone under the age of 16. However many candidates were competent at selecting and applying the law in order to reach a reasoned sustainable conclusion.

Part **(c)** concerned bigamy and there was considerable confusion amongst candidates who had assumed that duress was involved. In so doing they misapplied the source material and were led astray by irrelevant and unnecessary assumptions. Some candidates answered the question well but lacked detailed application of the relevant subsection.

Part **(d)** was generally well answered. Candidates understood what was meant by duress and applied the statute and case law well. Competent detailed understanding was shown by the majority of candidates.

Part **(e)** expected a detailed consideration of the methods of solving disputes over financial affairs of parties seeking divorce. Candidates tended to simply list various methods of ADR but there were some outstanding answers which showed excellent understanding of ADR compared to the disadvantages of the courts system, although, some candidates tended to focus on whose responsibility it was to provide for the former spouse and related issues rather than address the question. Others also focused on the court appeal structure. Many included arbitration and tribunals which was not relevant to the question. Some Centres appear to have anticipated a set question on statutory interpretation and candidates produced pages of detailed notes on this topic only.

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Paper 9084/31

Paper 31

Key Messages

- Encourage contextual and critical learning of legal rules.
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
- Encourage detailed application of legal principle in scenario-based questions.
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question.

General comments

There is again some pleasing evidence that some a proportion of Centres have started to move in the right direction: rules appear to have been taught in total context and candidates are starting to be far more selective in the material they include in answers to suit the actual question posed. This question paper brought out very variable responses from candidates and in most cases where candidate performance fell below the required standard it was as a result of purely descriptive responses and/or weak application to scenario situations.

Comments on specific questions

Section A

Question 1

It is pleasing to report that this question produced some strong responses and very few candidates who attempted it submitted very weak answers.

Better prepared candidates were able to discuss the common law rules of incorporation and the contra proferentem rule and case law related thereto. Criticism of the rules as required by the question set was often tenuous except in the very best responses. Even at the better end of responses, candidates might have been more selective and chosen to omit reference to statutory controls too.

Weaker answers were typically very descriptive, superficial and variable in accuracy.

Question 2

A fairly popular question which was well answered by those who chose to focus their knowledge on the question actually posed; far too many candidates stated all they knew about the rules associated with contracts induced by misrepresentation. The Examiner will always look for a brief introduction to contextualise the response, but candidates must realise that focus is the key to success.

Surprisingly few candidates seemed to have any real grasp of what a contract in utmost good faith implies and the reasons why disclosure of information is imperative in these cases whereas it is left up to prospective parties to other types of contract to obtain information they need for themselves.

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Only a very few candidates were able to demonstrate a reasonable understanding that the duty to disclose and not to remain silent is vital in certain types of contract because often the information concerns personal data about the individual that the interested party is unable to discover for himself.

Question 3

This general question about limitations on the award of damages was one of the most popular amongst candidates.

The better prepared candidates produced succinct discussions of compensation for pecuniary and non-pecuniary losses and the limitations of causation, remoteness and mitigation with demonstrable understanding. Responses were suitably structured to formulate the assessment required by the question.

Weaker responses tended to lack focus and were commonly based on little or no legal principle at all.

Section B

Question 4

A popular question which was well answered by those who chose to focus their knowledge on the question actually posed; but many simply stated all they knew about the formation and essentials of a valid contract. The Examiner will always look for a brief introduction to contextualise the response, but candidates must realise that focus is the key to success.

The concepts of unilateral and bilateral contracts were generally well known but the ability to clearly and succinctly state, explain and illustrate with case law example the basic rules relating to offers, invitations to treat and acceptance of offers was very variable.

The best responses to this question were excellent examples of what well-prepared candidates can achieve: material was carefully selected, presented within a compelling and logical structure which applied the law to the scenario throughout and clear, compelling conclusions were presented. Nevertheless, few candidates saw the need to distinguish between the overarching long term contract and the individual contracts made as a consequence of it. The intention to create legal relations in commercial settings was well known even if the decision in Rose and Frank v Crompton Bros either was not or was overlooked.

The weakest answers consisted of lengthy, unordered text which was poorly applied to the scenario; any conclusion attempted was often thin or even contradictory.

Question 5

It is pleasing to report that this question produced some strong responses and very few candidates who attempted it produced very weak answers.

Responses from the better-prepared candidates briefly contextualised with a few sentences about consideration and its rules and then went on to discuss the very pertinent issue of the sufficiency of consideration and, in particular, whether or not the performance of an existing duty already owed under a contract between two parties can possibly act as valuable consideration to support a promise made by one of the parties to do something which they are not bound to do under the terms of their original contract (e.g. make additional payments). The relevance of the decision in Williams v Roffey was widely and clearly understood.

For the less well prepared candidate this was not the straightforward problem concerning consideration in the formation of a contract that the majority of candidates were expecting, based on the nature of their responses: far too many chose to write all embracing answers covering virtually all they knew about the topic and performed very little or no relevant analysis and/or application to the problem situation.

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Question 6

This question was the most popular in ***Section B***. It was a relatively straightforward question on invitation to treat, offer, counter offer and acceptance even if candidates had never been introduced to the notion of the battle of the forms, but it resulted in outcomes of very differing quality.

Well-prepared candidates were able to demonstrate what they can achieve: material was carefully selected, presented within a compelling and logical structure which applied the law to the scenario throughout and clear, compelling conclusions were presented, thus demonstrating a first rate understanding of the law and its likely application. The concept of the battle of the forms was known and understood and appropriate case law selected to support argument.

Weaker responses demonstrated lack of knowledge and/or confused understanding and/or lack of appropriate skill.

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Paper 9084/32

Paper 32

Key messages

- Encourage contextual and critical learning of legal rules.
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
- Encourage detailed application of legal principle in scenario-based questions.
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question.

General comments

The paper provided a challenging range of questions. The knowledge and understanding elicited from candidates was on the whole satisfactory, although answering techniques varied quite widely.

The better prepared and more able candidates correctly identified the rules that required elucidation or discussion, were selective in the material presented and demonstrated an understanding of the question by appropriately commenting, criticising or evaluating as requested.

In the majority of cases where candidate performance fell below the required standard of this challenging paper it was as a result of presenting purely descriptive responses.

Comments on specific questions

Section A

Question 1

The best responses to this were from candidates who had actually read and understood the question; focus was on unilateral mistake and not mistake in general. Present day and historical approaches to unilateral mistake by common law and equity were examined, case law was used to illustrate and an attempt was made to judge the impact of the various approaches made by the courts on the rights of the parties involved.

However, many candidates produced a somewhat pedestrian approach with an observable tendency to write all they knew about mistake generally, treating unilateral mistake as just another subset of mistake. A few mistook the question for one about unilateral contracts.

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Question 2

One of the most popular questions; most candidates understood the postal rule and connected it with acceptance. There was less security when it came to relating modern communication methods to the fundamental rules and there was a tendency to write very generally on modern methods but the majority were aware of Entores v Miles.

The best responses came from those candidates who focused on the question set and who made a gallant attempt to relate the rules of communication of acceptance to instantaneous electronic methods and draw a compelling conclusion

The weaker responses simply regurgitated the law on acceptance as a whole and only covered the postal rules and electronic communication briefly.

Question 3

Surprisingly, this general question about limitations on the award of damages was not one of the most popular questions.

Even the better prepared candidates who succinctly presented causation, remoteness and mitigation with demonstrable understanding, with some exceptions, tended to miss the command in the question that asked for criticism of the limitations.

Many candidates misinterpreted the question – they presented responses focussing more on the quantification of damages and the types of loss that damages can compensate for than on the limitations that exist to the right to an award of damages in the event of a breach of contract.

Section B

Question 4

This question was popular and generally attracted good responses.

The best responses were presented by candidates who identified consideration as the key issue in a brief introduction and then focused on the sufficiency of consideration rule relating to part payment of debt. The rule in Pinnel's case was examined in some detail and followed up by a full discussion of debt being discharged if fresh consideration is introduced in return for discharge from the full debt. Credit was also granted to those candidates who noted and examined the issue that as this appeared to be an arrangement between friends there may have been no intention to create legal relations and thus no contract.

Weaker responses wrote all they knew about the rules of consideration in general and in far too many cases any real application of legal principle to the scenario was wanting. The Examiners will always look for a brief introduction to contextualise the response, but candidates must realise that focus and detailed application are the keys to success.

Question 5

Many candidates who attempted this question identified the common law rules for the incorporation of terms in a contract and these were generally well applied.

The better candidate responses also identified and discussed the potential for the application of the contra proferentem rule of interpretation and highlighted that if the sign read 'parked at owners risk' then it did not apply if the car was being rented or driven by another. S2 of the Unfair Contract Terms Act was examined in this context and conclusions drawn, including that the trespassers should be sued in the law of tort. Responses were extremely well supported by reference to appropriate case law.

Weaker candidates wrote all they knew about the rules of incorporation of terms without the relevant synthesis and selection of truly appropriate material. A good proportion of candidates either failed to consider the relevance of the Unfair Contract Terms Acts or demonstrated only cursory knowledge of them. Any real application of legal principle to the scenario was often far too superficial and lacking in case law support.

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Question 6

This was one of the least popular questions and elicited perhaps the worst general quality responses to any on the question paper.

Many candidates who attempted it tried to apply the law of misrepresentation and when rights and remedies were addressed they were treated far too generally. Many candidates thought that Sarah would be liable to pay the damages stipulated in the contract damages and did not discuss the liquidated damages/penalty clauses issue at all. Entanglement in potential remedies was a real issue.

Better responses correctly mentioned possible equitable remedies of specific performance and injunctions but this was often without indicating that these would only be awarded if damages alone are considered inadequate. Limitations on the remedy of specific performance in contracts of employment were commonly known and injunctions were commonly offered as the remedy that might solve the issue. It was pleasing to see at least a reasonable number of candidates discuss the implications of the decision in Page One Records v Britton to a possible award of an injunction designed to enforce compliance with the contract.

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Paper 9084/33

Paper 33

Key Messages

- Encourage contextual and critical learning of legal rules.
- Encourage candidates to focus on the question actually posed and ensure that responses comply with directions given in the command of the question (e.g. evaluate, criticise, analyse etc.).
- Encourage detailed application of legal principle in scenario-based questions.
- Discourage simple regurgitation of rote-learned facts; candidates are partly assessed on their ability to synthesise what they have learnt and select appropriate material for inclusion in the response to the question.

General comments

The better prepared and more able candidates correctly identified the rules that required elucidation or discussion, were selective in the material presented and demonstrated an understanding of the question by appropriately commenting, criticising or evaluating as requested.

Disappointingly, there were more candidates than normal who failed to follow the question paper rubric and answer three questions. Whether this resulted from more than a normal amount of candidates being under-prepared for the examination or being less able to manage their time is unclear.

Comments on specific questions

Section A

Question 1

This was a popular question that attracted responses of very variable quality.

Unfortunately, there were significant weaknesses in many responses. It would appear that weaker candidates either misread or simply misunderstood the requirements of the question. The result was all embracing factual responses about the general control of exclusion clauses for which few marks could be awarded.

Better prepared candidates, however, briefly set the context and then focused exclusively on the controls imposed by the Unfair Contract Terms Act and Unfair Terms in Consumer Transactions Regulations and then attempted a critical examination of the extent to which individual sections could have an impact on contracts involving consumers. The best responses involved specific examples of particular types of contract situations where the rules might have either positive or negative impact on the position of the consumer.

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Question 2

This was quite a popular question and most candidates managed to get into band 3 or 4. There were also a good number of candidates who achieved band 5 with this question.

The best responses to this fairly popular question were characterised by the selection of an appropriate amount of background information on operative mistake and candidates then proceeded to address the real crux of the question: a critical evaluation of the possible consequent remedies available from present and historical viewpoints.

Weak responses stated the various types of mistakes but failed to provide any meaningful evaluation of remedies. References to cases often provided only a case name and no factual illustration.

Worryingly, many candidates tended to use the terms voidable and void interchangeably – although often the following discussion indicated at least some idea of the difference.

Question 3

This question expected candidates to make an assessment of the need for particular rules. It was attempted by comparatively few candidates.

The best responses explained in some detail when quantum meruit awards might be made, what their purpose is and examined the limitations on such awards before performing at least a rudimentary assessment of why it is necessary to distinguish between awards of damages and quantum meruit awards.

These responses also tended to include a translation of the Latin term and case illustrations of how this concept is utilised by the courts.

Weak respondents generally failed to understand the meaning of a quantum meruit award and consequently responses were founded on guesswork and received little credit.

Section B

Question 4

This was a popular question with many candidates recognising that it was a straightforward question about contract formation.

The better responses identified the relevant rules relating to invitation to treat, (implied) offer, counter offer and acceptance, illustrated them by reference to appropriate case law and then accurately and effectively applied them to each part of the transaction in the scenario before reaching a clear and concise conclusion.

The weakest answers consisted of lengthy, often contradictory responses which were poorly applied to the scenario; any conclusion attempted was too often thin at best. It is somewhat alarming that some candidates concluded that it was a case of fraud and/or misrepresentation by the vending machine.

Question 5

Although this was a popular question, performance generally was not very strong.

The better answers recognised that the contract was probably binding on Genevieve after analysing the various exceptions regarding fraud, duress etc. with respect to the signing of a contract. They also focused on specific performance and injunction as the most likely remedies that TNS would seek, with good analyses of why specific performance would be unlikely to be granted and why injunction was the more likely remedy.

Few of even the better candidates picked up on potential liquidated damages/penalty issues.

Weaker candidate responses tended to miss the thrust in the question signposted towards the desire to enforce the contract and were directed instead at the status of the term that might have been broken. Few if any marks could be awarded in these cases.

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Question 6

This was probably the single most popular question with a number of themes running through it and probably the one that attracted the best quality responses overall.

The best responses to this question were excellent examples of what well prepared candidates can achieve: material was carefully selected and presented within a compelling and logical structure which applied the law to the scenario throughout and clear, compelling conclusions were presented. Focus was on consideration and intention to create legal relations as the pivotal issues accompanied by detailed analysis of why Kenton might seek promissory estoppel although there was some uncertainty as to how the 'shield not sword' principle applies to the respective parties in the action.

Most candidates who attempted this question identified the issues and seemed to apply the principles to the facts reasonably well. There were a number of candidates who seemed to misunderstand who needed to provide the consideration and it was the minority rather than majority who failed to recognise intention.

The issue with the weakest responses was lack of structure, superficiality and minimal application of rules before arriving at unsubstantiated conclusions.

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Paper 9084/41

Paper 41

Key Messages

- Centres are reminded that ***Section A*** requires both knowledge of the legal rules and an ability to evaluate and critically analyse the rules.
- In ***Section B*** candidates are required to identify the relevant legal issues in the factual scenario and select and apply the appropriate legal rules in order to reach a coherent conclusion.
- Therefore it is imperative that candidates learn the rules in such a way that they understand the aim and purpose of the rules and can use the rules effectively to answer the questions asked on the examination paper.
- In both ***Section A*** and ***Section B*** candidates must strive to present an accurate account of the relevant legal rules and use supporting authority where possible.

General Comments

While some candidates demonstrated a high level of both knowledge and skill in their responses, there were still many candidates who would have benefited from more preparation for this particular style of paper.

The strongest candidates demonstrated both a detailed knowledge and understanding of the subject matter and an ability to critically analyse the rules in ***Section A*** and select and apply the rules to the factual scenarios in ***Section B***. Weaker candidates tended to focus on the repetition of legal rules without the required analysis or application. These candidates did not demonstrate an appropriate level of understanding in their responses and in general tended not to address the key issues in the questions.

All candidates benefit from utilising past examination papers and mark schemes as part of their learning and revision in order to understand the demands of this examination.

Comments on Specific Questions

Section A

Question 1

This question proved to be very popular but produced a wide variety in terms of the standard of responses. While the candidates could gain credit from outlining the three essential elements of Negligence, the question makes a specific reference to the standard of care and this was the main focus of the question. The strongest candidates gave a brief introduction to Negligence and then presented a detailed account of the rules relating to the standard of care and critically assessed that aspect of Negligence, as required by the question.

However many weaker candidates simply presented the rules of Negligence without any particular focus on the standard of care and without any critical analysis. Such responses were therefore confined to Band 3.

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Question 2

This question proved to be reasonably popular. Again there were some strong responses in which candidates were able to present an accurate account of the legal rules relating to False Imprisonment and undertake an evaluation of the key elements of the question. However again the weaker candidates focused on explanation without the required evaluation and therefore achieved marks no higher than the maximum for Band 3.

Question 3

This question was attempted by relatively few candidates. A few stronger candidates identified the focus of the question correctly and gave an accurate account of the rules of Contributory Negligence and proceeded to evaluate the rules as required by the question. Some weaker candidates misunderstood the question and gave a general account of damages which gained little credit.

Question 4

In general, candidates were able to identify that this scenario involved the issue of Occupiers Liability and the Occupiers Liability Act 1957. Stronger candidates were able to present an accurate explanation of the Occupier's duty under the 1957 Act and then address the issue of the rules relating to liability for an independent contractor and apply the rules in the context of the two injuries described in the question. Weaker candidates tended to present an account of the rules which was less detailed and therefore the application of the rules to the facts tended to be weaker.

Question 5

Most candidates identified the issue of Negligence; however some weaker candidates then focused on the general Negligence requirements without addressing the key issue in the question, which was remoteness and liability for pure economic loss.

Stronger candidates briefly introduced the elements of Negligence but then focused on the rules relating to remoteness of damage and pure economic loss by reference to the rules developed through case law. In addition, stronger candidates included a discussion of the defence of Act of God.

Stronger candidates were then able to apply these rules to the losses suffered in the scenario and reach clear conclusions as to liability and the extent to which the claimant might be compensated.

Question 6

This proved to be a popular question. Candidates were generally able to identify the issue as being one of Private Nuisance. Most candidates were able to at least outline the key elements of the claim and stronger candidates were able to present a detailed account of the rules with reference to appropriate case law.

Stronger candidates were able to analyse the facts of the scenario and apply the rules to reach a clear and compelling conclusion in terms of both liability and appropriate remedies. Weaker candidates tended to apply the rules to the facts in a superficial way therefore reaching a less convincing conclusion

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Paper 9084/42

Paper 42

Key Messages

- Centres are reminded that ***Section A*** requires both knowledge of the legal rules and an ability to evaluate and critically analyse the rules in the context of the specific question asked.
- In ***Section B*** candidates are required to identify the relevant legal issues in the factual scenario and select and apply the appropriate legal rules in order to reach a coherent conclusion.
- Therefore it is imperative that candidates learn the rules in such a way that they understand the aim and purpose of the rules and can use the rules effectively to answer the questions asked on the examination paper.
- In both ***Section A*** and ***Section B*** candidates must strive to present an accurate account of the relevant legal rules and use supporting authority where possible.

General Comments

While some candidates demonstrated a high level of both knowledge and skill in their responses, there were still many candidates who would have benefited from more preparation for this particular style of paper.

The strongest candidates demonstrated both a detailed knowledge and understanding of the subject matter and an ability to critically analyse the rules in ***Section A*** and select and apply the rules to the factual scenarios in ***Section B***. Weaker candidates tended to focus on the repetition of legal rules without the required analysis or application. These candidates did not demonstrate an appropriate level of understanding in their responses and in general tended not to address the key issues in the questions.

All candidates benefit from utilising past examination papers and mark schemes as part of their learning and revision in order to understand the demands of this examination.

Comments on Specific Questions

Section A

Question 1

This was a popular question and there were many good responses. Most candidates were able to explain the basic distinction between economic loss and pure economic loss. The best candidates were able to present a detailed explanation, trace the development of the rules through relevant case law and critically analyse the justifications for the distinction as required by the question. Weaker candidates tended to present an explanation of the facts of the cases without engaging in any critical analysis.

Question 2

This was not a popular question and some candidates who attempted to answer it did not identify correctly the subject matter of the question, which was the defence of consent/volenti. Hence there were a number of answers relating to Nervous Shock, Negligence and General Defences which were awarded little credit.

A small number of candidates identified the issue correctly and presented an explanation of the rules and in a few cases a reasonable evaluation of the defence as required by the question.

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Question 3

This was a very popular question and there were some very good responses. Most candidates were able to present a reasonable explanation of the elements of nuisance with reference to some relevant case law.

The best candidates were able to give a detailed explanation and engage in a critical analysis of the tort as required by the question. However for weaker candidates there was a tendency to focus on explanation and not address the critical analysis at all which resulted in marks within Band 3 only.

Question 4

This was a popular question. Candidates generally had little difficulty identifying the issue of Negligence and most were able to give a reasonable explanation of the three elements of Negligence. However in terms of application, weaker candidates tended to give undue attention to issues such as Duty of Care when the real focus of the question was Causation and Damages. Stronger candidates having identified the relevant issues were able to focus the application on Causation and distinguish between the two potential defendants and their respective liability.

Question 5

This was a popular question. On the whole most candidates were able to identify the issue of Occupiers Liability and then distinguish between the position of the lawful visitor and the trespasser. Most candidates focused on the Occupiers Liability Act 1984. Stronger candidates were able to give an accurate and detailed account of the requirements of the Act while weaker candidates tended to present a basic account. Stronger candidates were then able to address the possible liability of Rosa/Speedy Clear in terms of Negligence and with some references to Vicarious Liability.

Question 6

This was a reasonably popular question. Most candidates identified the issue as being that of Trespass to the Person and were able to present at least a basic explanation of Assault, Battery and False Imprisonment. Weaker candidates tended to apply the law to the facts in a rather superficial way. Stronger candidates were able to give a detailed explanation of the rules with reference to relevant case law and then apply the rules to the facts in a convincing way and reach clear and compelling conclusions.

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Paper 9084/43

Paper 43

Key Messages

- Centres are reminded that ***Section A*** requires both knowledge of the legal rules and an ability to evaluate and critically analyse the rules.
- In ***Section B*** candidates are required to identify the relevant legal issues in the factual scenario and select and apply the appropriate legal rules in order to reach a coherent conclusion.
- Therefore it is imperative that candidates learn the rules in such a way that they understand the aim and purpose of the rules and can use the rules effectively to answer the questions asked on the examination paper.
- In both ***Section A*** and ***Section B*** candidates must strive to present an accurate account of the relevant legal rules and use supporting authority where possible.

General Comments

While some candidates demonstrated a high level of both knowledge and skill in their responses, there were still many candidates who would have benefited from more preparation for this particular style of paper.

The strongest candidates demonstrated both a detailed knowledge and understanding of the subject matter and an ability to critically analyse the rules in ***Section A*** and select and apply the rules to the factual scenarios in ***Section B***. Weaker candidates tended to focus on the repetition of legal rules without the required analysis or application. These candidates did not demonstrate an appropriate level of understanding in their responses and in general tended not to address the key issues in the questions.

All candidates benefit from utilising past examination papers and mark schemes as part of their learning and revision in order to understand the demands of this examination.

Comments on Specific Questions

Section A

Question 1

This was not a popular question and in general the responses were poor. While some candidates were able to present an explanation of damages and distinguish between different types of damages, most candidates did not critically assess the principle of *restitutio in integrum,* as required by the question. Where evaluation was attempted it tended to be very simplistic and superficial.

Question 2

This was not a popular question. Most candidates were able to present an explanation of the meaning of vicarious liability and describe the operation of the doctrine within the context of the employment relationship. Most candidates were able to demonstrate an awareness of the justifications for vicarious liability but only a relatively small number of candidates engaged in a critical analysis of these justifications and in that way addressed the question asked.

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Question 3

This was a very popular question. However there were many poor responses in which candidates simply explained the torts but did not compare them or evaluate the need for both torts as required by the question. There also tended to be an imbalance in many responses with candidates giving a detailed account of Private Nuisance and then saying relatively little in relation to Trespass to Land. Some of the stronger candidates engaged in a point by point comparison of the torts and addressed the question asked and therefore achieved the higher band marks.

Question 4

This was a reasonably popular question. The best responses provided an explanation of General Negligence and then an account of the distinction between consequential economic loss and pure economic loss through a discussion of relevant case law. In the strongest responses these rules were then applied carefully to each to the losses outlined in the scenario and a clear and compelling conclusion was reached.

Weaker responses tended to explain General Negligence or Pure Economic Loss but not both and therefore the application was weak.

Question 5

This was a popular question. Most candidates were able to correctly identify the issues of Negligence and Nervous Shock however there were a number of weaknesses evident in many responses. Many responses were imbalanced. In some cases there was a lot of material on Nervous Shock but little reference to other issues such as General Negligence. Many candidates struggled with the application and did not distinguish between the rights and liabilities of the three individuals in the scenario. The best candidates were able to explain the relevant rules with reference to appropriate case law and apply the law to the facts in relation to each of the potential claimants/defendants and reach clear conclusions in relation to each.

Question 6

This was a popular question. There were some very strong responses to this question. Most candidates were able to identify the issue of Trespass to the Person and explain the rules relating to Assault, Battery and False Imprisonment with reference to at least some case law. In the weaker responses there was some imbalance with False Imprisonment given a more superficial treatment than Assault and Battery. Most candidates were able to apply the law to the facts however the best candidates did so with a detailed discussion of the relevant facts, a reference to possible defences and clear and compelling conclusions.

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